

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY - CAMDEN
CIVIL ACTION - LAW

Mary Phillips	:	
410 West Matson Run Parkway	:	
Wilmington, DE 19801	:	
vs	:	
Michael E. Berenato & Elizabeth Berenato	:	
1006 Oakwood Drive	:	
Blackwood, NJ 08012	:	
and	:	
Regina L. Kukola	:	
207 Grande Avenue	:	
Blackwood, NJ 08012	:	JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Mary Phillips, by and through her attorney, David Brian Rodden, Esquire, bring this cause of action against Defendants Regina L. Kukola and Michael E. Berenato and in support thereof, state the following:

I. PARTIES

1. Plaintiff Mary Phillips is a citizen of the State of Delaware residing at 410 West Matson Run Parkway, Wilmington, New Castle County, Delaware.
2. Defendant Michael E. Berenato is a citizen of the State of New Jersey residing at 1006 Oakwood Drive, Blackwood, Camden County, New Jersey.
3. Defendant Elizabeth Berenato is a citizen of the State of New Jersey residing at 1006 Oakwood Drive, Blackwood, Camden County, New Jersey.
4. Defendant Regina L. Kukola is a citizen of the State of New Jersey residing at 207 Grande Avenue, Blackwood, Camden County, New Jersey.

II. JURISDICTION and VENUE

5 Jurisdiction in this matter is premised upon 28 USC §1332(a)(2) in that the plaintiff is a citizen of Delaware and the defendants are citizens of the State of New Jersey and the amount in controversy exceeds the sum of \$75,000.00.

6 Venue is proper in this Court pursuant to 28 USC §1391 in that the cause of action arose in this District.

III. FACTUAL AVERMENTS

7 On November 1, 2010, Plaintiff was operating a 2006 Honda Ridgeline, owned by Carima Schaeffer, said vehicle traveling eastbound on Church Street, Gloucester Township, Camden County, New Jersey,

8. Defendant Regina Kukola was operating her vehicle, a 2010 Hyundai Accent, westbound on Church Street, Gloucester Township, Camden County, New Jersey.

9. Defendant Michael Berenato was operating his vehicle, a 2008 Chevrolet Malibu, which vehicle was owned and/or co-owned by Defendant Elizabeth Berenato, westbound on Church Street, Gloucester Township, Camden County, New Jersey, behind Defendant Kukola.

10. Defendant Michael Berenato was the permissive driver of the aforesaid vehicle owned by Defendant Elizabeth Berenato involved in the accident described more fully herein after, acting either individually or as agents, servants, workmen or employees of the aforesaid Defendant and was acting within the course and/or scope of his employment and/or in furtherance of the aforesaid Defendant.

11. Defendant Kukola was making a left-hand turn from Church Street onto State Street directly into Plaintiff's lane of travel when she stopped suddenly and was rear-ended by Defendant Berenato, who was traveling at an excessive rate of speed, the impact of which

pushed her car into Plaintiff's vehicle colliding with Plaintiff and causing Plaintiff to sustain serious and permanent injuries more full set forth hereinafter.

12. As a result of the collision, Plaintiff sustained serious, permanent and painful injuries to her head, neck and low back, including but not limited to cervical disc herniations, cervical radiculopathy, lumbar disc herniations, internal disruption of the disc with annular tears, and S1 dysfunction, and injury to the muscles, nerves, disks, bones and ligaments connected thereto; and a shock to the nerves and nervous system. Plaintiff has endured and continues to endure great pain and suffering and/or aggravation of pre-existing conditions.

13. As a further result of this accident, Plaintiff has been or will be obliged to receive and undergo medical attention and care, and to expend various sums of money and/or incur expenses for the injuries she has suffered; and she may be obliged to continue to expend such sums for an indefinite period of time in the future, perhaps permanently.

14. As a further result of this accident, Plaintiff has or may suffer a severe loss of her earnings, and impairment of earning capacity or power for which a claim is hereby made.

15. As a direct and reasonable result of the aforementioned accident, Plaintiff has or may in the future incur other financial expenses and/or losses, which do or may exceed amounts, which Plaintiff may otherwise be entitled to recover under contract, or in accordance with the Law.

16. As a result of the aforementioned accident, and by reason of the injuries as aforesaid, Plaintiff has or may in the future continue to suffer great pain and agony, mental anguish and humiliation, and has been and may in the future be hindered from attending to

her daily duties, functions, avocations and occupations(s) all to Plaintiff's great damage and loss.

Count I
Mary Phillips v. Michael Berenato
(Negligence)

17. The allegations contained in the preceding paragraphs are incorporated herein.

18. The negligence and carelessness of Defendant Michael Berenato consisted of, but is not necessarily limited to the following:

- (a) Operating a vehicle in a negligent manner and in disregard of the rules of the road, the laws of the State of New Jersey and applicable local ordinances;
- (b) Inattentive driving and failing to keep a proper lookout;
- (c) Failing to keep his vehicle under proper and adequate control;
- (d) Operating said vehicle at an excessive rate of speed;
- (e) Failing to apply breaks in time to avoid the collision;
- (f) Failing to make proper observations;
- (g) Failing to operate said vehicle in accordance with existing traffic conditions;
- (h) Permitting said vehicle to strike and collide with another vehicle;
- (i) Following too closely;
- (j) Operating said vehicle in a manner which was unreasonable or unsafe under the conditions;
- (k) Allowing and permitting an unregistered motor vehicle to be operated upon the public highways;
- (l) Violating the rules and regulations of the State of New Jersey pertaining to the ownership and operation of motor vehicles.

19. Solely as a result of the aforesaid negligence of Defendant Michael Berenato, Plaintiff suffered severe and substantial personal injuries, and has been and in the future will be caused to undergo great pain and suffering, mental anguish and anxiety; has been and in the future will be prevented from pursuing her usual duties and activities; and, has and in the future will be caused to expend large sums of money for medical care and attention in and about endeavoring to cure herself of her injuries.

20. As a further result of this accident, Plaintiff has or may suffer severe loss of her earnings and/or impairment of her earning capacity or power for which a claim is hereby made.

WHEREFORE, Plaintiff Mary Phillips demands judgment against Defendants, and each of them, jointly, severally and/or singularly, for such sums as would reasonably and properly compensate her in accordance with the laws of the State of New Jersey, together with damages, counsel fees, interest and costs of suit.

Count II
Mary Phillips v. Elizabeth Berenato
(Negligent Entrustment)

21. The allegations contained in the preceding paragraphs are incorporated herein.

22. Defendant Elizabeth Berenato was negligent and careless in that she entrusted a vehicle owned and/or co-owned by her to a person she knew or should have known would operate said vehicle in a careless and negligent manner, namely, Defendant Michael Berenato.

23. Further negligence Defendant Elizabeth Berenato included, but was not limited to, the following:

- (a) Allowing Defendant Michael Berenato to operate her vehicle knowing that he did not possess the necessary skills to do so;
- (b) Allowing Defendant Michael Berenato to operate her vehicle without knowing Defendant's skills or ability to do so;
- (c) Allowing Defendant Michael Berenato to operate her vehicle knowing that he was not licensed or privileged to do so under New Jersey law;
- (d) Allowing and permitting an unregistered motor vehicle to be operated upon the public highways;
- (e) Permitting an unqualified, untrained and/or incompetent person to operate her vehicle;
- (f) Violating the rules and regulations of the State of New Jersey pertaining to the ownership and operation of motor vehicles.

24. Solely as a result of the aforesaid negligence of Defendant Elizabeth Berenato, Plaintiff suffered severe and substantial personal injuries, and has been and in the future will be caused to undergo great pain and suffering, mental anguish and anxiety; has been and in the future will be prevented from pursuing her usual duties and activities; and, has and in the future will be caused to expend large sums of money for medical care and attention in and about endeavoring to cure herself of her injuries.

25. As a further result of this accident, Plaintiff has or may suffer severe loss of her earnings and/or impairment of her earning capacity or power for which a claim is hereby made.

WHEREFORE, Plaintiff Mary Phillips demands judgment against Defendants, and each of them, jointly, severally and/or singularly, for such sums as would reasonably and properly compensate her in accordance with the laws of the State of New Jersey, together with damages, counsel fees, interest and costs of suit.

Count III
Mary Phillips v. Regina L. Kukola
(Negligence)

26. The allegations contained in the preceding paragraphs are incorporated herein.

27. The negligence and carelessness of Defendant Regina Kukola consisted of, but is not necessarily limited to the following:

- (a) Operating of a vehicle in a negligent manner and in disregard of the rules of the road, the laws of the State of New Jersey and applicable local ordinances;
- (b) Failing to keep her vehicle under proper and adequate control;
- (c) Permitting said vehicle to strike and collide with Plaintiff's vehicle;
- (d) Allowing said vehicle to cross over into the oncoming lane of traffic;
- (e) Failing to make proper observations;
- (f) Failing to operate said vehicle in accordance with existing traffic conditions;

(g) Operating said vehicle in a manner which was unreasonable or unsafe under the conditions.

28. Solely as a result of the aforesaid negligence of Defendant Regina Kukola, Plaintiff suffered severe and substantial personal injuries, and has been and in the future will be caused to undergo great pain and suffering, mental anguish and anxiety; has been and in the future will be prevented from pursuing her usual duties and activities; and, has and in the future will be caused to expend large sums of money for medical care and attention in and about endeavoring to cure herself of her injuries.

29. As a further result of this accident, Plaintiff has or may suffer severe loss of her earnings and/or impairment of her earning capacity or power for which a claim is hereby made.

WHEREFORE, Plaintiff Mary Phillips demands judgment against Defendants, and each of them, jointly, severally and/or singularly, for such sums as would reasonably and properly compensate her in accordance with the laws of the State of New Jersey, together with damages, counsel fees, interest and costs of suit.

RODDEN & RODDEN

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